

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JAMES E. NOTTINGHAM,

No. 4:18-CV-02003

Plaintiff,

(Judge Brann)

v.

(Magistrate Judge Mehalchick)

NANCY BUTTS, *et al.*,

Defendants.

ORDER

MAY 10, 2019

On March 13, 2019, Magistrate Judge Karoline Mehalchick recommended that this Court dismiss the Complaint filed by James E. Nottingham. On March 25, 2019, Mr. Nottingham objected to portions of that Report and Recommendation. This Court has reviewed the objected-to portions *de novo*, and agrees with the analysis and conclusions in those portions. This Court will therefore overrule Mr. Nottingham's objections. This Court otherwise finds no clear error on the face of the record.¹

¹ This Court has the authority to refer certain motions to magistrate judges for dispositional recommendations. 28 U.S.C. § 636(b)(1). If a party objects to any portion of such a "Report and Recommendation," this Court must review that portion *de novo*. *Id.* Otherwise, this Court may accept a magistrate judge's recommendations if "there is no clear error on the face of the record." *Univac Dental Co. v. Dentsply Int'l, Inc.*, 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010).

Therefore, **IT IS HEREBY ORDERED** that:

1. Plaintiff's Objections, ECF No. 15, are **OVERRULED**.
2. Magistrate Judge Karoline Mehanchick's Report and Recommendation, ECF No. 14, is **ADOPTED IN ITS ENTIRETY** as follows:
 - a. Plaintiff's Complaint, ECF No. 1, is **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and 28 U.S.C. § 1915A(b)(1) for failure to comply with Rule 8, as well as for failure to state a claim under 42 U.S.C. § 1983 upon which relief can be granted.
 - b. All claims against the Defendants sounding in habeas corpus are **DISMISSED WITHOUT PREJUDICE**, without leave to amend, as 42 U.S.C. § 1983 is not the appropriate avenue for such relief.
 - c. The following claims are **DISMISSED WITH PREJUDICE**, without leave to amend:
 - i. All claims asserted against Judge Butts and Judge Gray in their official capacities, as barred under the Eleventh Amendment; and
 - ii. All claims brought against the Defendants under the Fifth Amendment, as legally frivolous.

- d. Plaintiff's remaining claims against the Defendants are **DISMISSED WITHOUT PREJUDICE**, with leave to amend:
- i. Plaintiff's claims for: criminal conspiracy enterprise; perjury; forgery; fraud; obstruction of justice; trespassing; illegal entry; tampering with evidence and documents; aggravated assault; simple assault; battery; false arrest; false imprisonment; intentional infliction of emotional distress; negligence; breach of duty; abuse of authority; and
 - ii. Plaintiff's claims asserted under the First, Fourth, Sixth, Seventh, Eighth, Ninth, Eleventh, Fourteenth, and Fifteenth Amendments.
- e. Plaintiff is granted leave to file an amended complaint, that reasserts his remaining claims and cures the deficiencies outlined herein, within thirty days of the date of this Order.
3. This case is remanded to Magistrate Judge Mehalchick for further proceedings.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann
United States District Judge